

MENTAL HEALTH AND DISABILITY SERVICES COMMISSION  
January 3, 2013, 2:30 pm to 4:30 pm  
Telephone Conference  
MEETING MINUTES

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MHDS COMMISSION MEMBERS PARTICIPATING:

Neil Broderick  
Lynn Crannell  
Richard Crouch  
Richard Heitmann  
Chris Hoffman  
David Hudson  
Gary Lippe

Zvia McCormick  
Deb Schildroth  
Patrick Schmitz  
Susan Koch-Seehase  
Dale Todd  
Suzanne Watson  
Jack Willey

MHDS COMMISSION MEMBERS ABSENT:

Senator Merlin Bartz  
Jill Davisson  
Lynn Grobe  
Representative Dave Heaton

Representative Lisa Heddens  
Senator Jack Hatch  
Laurel Phipps  
Gano Whetstone

DHS STAFF PARTICIPATING:

Theresa Armstrong  
Connie Fanselow  
Rick Shults

MHDS, Bureau Chief, Community Serv. & Planning  
MHDS, Community Services & Planning  
DHS, Administrator MHDS Division

CALL TO ORDER

Jack Willey called the meeting to order at 2:40 p.m. Roll call was taken and quorum was established. Members of the public were able to dial into the meeting. No roll of non-Commission members was taken.

COUNTY EXEMPTION RULES

Rick Shults reviewed the proposed administrative rules for establishing criteria for county exemption from joining into regions and for forming regions of less than three counties. He thanked the Regional Committee for their work in raising questions and providing guidance during the rules development process. He noted the Transition Committee also worked closely with the Department in reviewing draft language and providing consultation, and the Attorney General's Office provided legal guidance to arrive at the proposed rules being presented today.

Rick said they do not include all the things the Transition Committee and the Commission had suggested and supported because in conversations with the Attorney General's Office, they looked at several requirements that would have called for a "viable plan." While many of those items will be required of regions and any counties that would be exempted, they are future requirements that do not have to be in place now. Because of that, it was decided not to include them in these rules because there would have to be pre-judgments made about what a county could do at some point in the future. The guidance from the Attorney General's Office was to stay with items that are specifically listed in the legislation, not to repeat in rule what is contained in the legislation, and not to attempt to enforce anything that is required to happen at a future date.

Question: Will counties that ask for exemption be subject to the same requirements as regions? Rick Shults responded that he believes that these rules require a county that wants to stand alone to be subject to all the same requirements that a region will be expected to meet at the same point in time the regions are expected to meet them. The legislation requires regions to be fully implemented by July 1, 2014.

Question: Will all of the regions or counties be made aware that this the expectation? Will there be guidelines from the Department? Rick responded that there appears to be a need for additional guidance for regions and counties on what is required for them to be in compliance by July 2014. He said the Department also recognizes that counties contemplating exemption need to know what the expectations are so they can make the decision. He said it will be a high priority to start talking about what rules and guidance are needed as soon as possible.

#### Core Services and Required Functions Standards Discussion:

Patrick Schmitz referred to the items listed under core services and required functions standards and commented that they are very specific, some appear to be core plus services, and he is concerned that places too much focus on what providers can do. He said it appears to be an expectation above and beyond what is expected of regions and asked if all regions will be expected to meet that expectation.

Rick responded that part (a) is intended to define a basic crisis response telephone system, parts (b), (c), and (d) are the requirements that the region have access to services that are appropriate for people with co-occurring needs, are evidence-based, and are trauma informed. Those are basic expectations of all regions.

Patrick Schmitz said he fully supports the core services and the core plus services, but has concerns that the specific services listed can be interpreted as required. Rick responded that the legislation calls for the provision of evidence-based practices (EBPs), which means that that the fidelity can be independently measured so that the Department can determine if services provided actually meet that standard. He said the challenge in writing rules where the Department will have to make a judgment is how to set an objective measure; for the purposes of these rules they cited EBPs that are

recognized by SAMHSA (Substance Abuse and Mental Health Services Administration). Patrick suggested that other evidence-based services could be evaluated if counties/regions submitted the supporting research. Gary Lipp noted that one of the goals of redesign is to have a more uniform array of services statewide.

Rick explained that SAMHSA has developed toolboxes and has well developed fidelity standards for the ones included in the rules. He said there are many other practices with research behind them but they do not necessarily have well developed fidelity standards, workbooks, and other tools behind them. He noted that counties/regions will have to demonstrate the capacity and could take the opportunity to explain to DHS how they are going to meet expectations.

Susan Seehase said that this section seems to lump all disability groups together and asked how it relates to people with intellectual or developmental disabilities or brain injuries. Rick responded that there is not the well-developed body of evidence for these kinds of interventions for other groups as there is for use with persons with mental illness. Part (c) where co-occurring conditions are discussed is where other disability groups are more specifically addressed; it calls for training identified by SAMHSA, the Dartmouth Psychiatric Research Center or other generally recognized professional organizations specified in the application. Part (d) calls for training identified by the National Center for Trauma Informed Care or other generally recognized professional organizations specified in the application. Rick said the Department felt that the most that could be required in these areas was the demonstration that people had been trained. The rules list some specific places to access lists of training, but leave it open to other sources.

## PAGE BY PAGE REVIEW

Definitions – no discussion.

Application Criteria – Rick noted this section lays out the process and deadlines for applying. Deb Schildroth noted that counties will have to submit letters of intent for joining regions before the application for exemption is due. Rick responded that the Department is aware there are inconsistencies in the timeline.

Applicant Criteria – Jack Willey noted that the language says “the application shall include written documentation and evidence” and asked if Rick could clarify what that means. Rick responded that the language was purposefully inclusive so that counties could determine that. Counties need to show they have:

- The capacity to provide required core services and perform other functions required by the legislation
- A contract with a community mental health center (CMHC) or a federally qualified health center (FQHC)
- A contract with a hospital with an inpatient psychiatric or an MHI (Mental Health Institute) “within reasonably close proximity”
- Clear lines of administrative accountability

- Taken steps to determine or demonstrate that forming a regions of three or more contiguous counties is “not workable”

Rick noted that “reasonably close proximity” is defined in the rules as a distance of 100 miles or less or a driving distance of 2 hours or less from the county seat or county seats of the applicant. He said there is an expectation that standard will be met.

Rick said of all the expectations, the “not workable” provision is probably the weakest, but the Department wanted the rules to reflect that counties are expected to make an effort to work into a region. He said the terminology “not workable” is what was used in the legislation, but noted that it is a problematic standard to prove or disprove and it is going to be difficult for the Department to use that criteria as a reason to deny an exemption. This pushes counties to at least think about it and document what they have done in their application.

Core Services and Required Functions Standards – discussed earlier. David Hudson asked if regions will be faced with the same list of services shown in Part (b). Rick responded that regions will have the same requirement to provide services that are evidence based.

Service Capacity – Rick said that since there is not yet any outcome data for functioning regions, county outcomes would be compared with statewide averages on measures of effectiveness and efficiency that the Department has already collected. This particular approach is unique to counties that are applying for exemption and would not be the same approach used for regions.

Patrick Schmitz asked if this data would be available to counties so they will be able to do their own assessment about where they would fall in comparison to statewide averages. Rick responded that it could potentially be made available fairly early on if counties are interested and could be provided as part of technical assistance to a county based on the data that has already been reported to DHS.

Lynn Crannell asked what happens if a county is denied exemption; will they be assigned to a region by the Director? Rick responded that the legislation gives the Director that authority.

Provider Network Sufficiency – Rick said this section includes evidence of a contract with a CMHC or FQHC, inpatient psychiatric services, and contracts with providers. It requires an “adequate numbers of providers” which will be difficult to measure. The reason for that requirement is that there may be waiting lists due to lack of available funds, but the Department wants to ensure there are not waiting lists due to a lack of providers. Suzanne Watson said that we have an acknowledged shortage of providers in and asked if this is really attainable. Rick responded that one of the advantages of joining into regions is the ability to bring more resources to bear so the Department felt it was important that counties requesting exemption could demonstrate their own resources were adequate.

Staffing – The governing board must have clear lines of accountability and the regional administrator staff must include one or more coordinators of disability services. That expectation is directly from the legislation. The coordinator of disability services is not required to be a separate person from the regional administrator; one person could fill both roles.

Determination that Formation of a Region is Unworkable – discussed earlier.

Compliance with Requirements of a Mental Health and Disability Services Region – An exempted county will be required to meet that same standards established for regions.

PUBLIC COMMENT:

Geoff Lauer, Brain Injury Alliance of Iowa, commented that the list based on SAMHSA evidence based practices under the Core Services and Required Function Standards does not include other evidence based, fidelity based services, for example cognitive rehabilitation for people recovering from traumatic brain injuries. He asked if there is an opportunity to look at additional evidence based practices that are outside the areas SAMHSA focuses on.

Rick responded that an applicant could choose to add additional services, noting that mental health is a mandated service population and currently brain injury is not.

Mark Beardmore, Carroll County Supervisor, commended the Commission for the work they have done. He said that he is please the bar has not been set unreasonably high for counties who choose to apply for exemption and believes that counties choosing to do so have a realistic opportunity to meet the requirements established in these rules. He asked how soon the Department would be willing to accept applications and if there will be an application form. Rick responded that letters of intent are due May 1 and there will be no form that that; they could be submitted any time before that date. Applications are due June 30 and a form will be developed for that. He also noted that technical assistance can be provided at any time.

Linda Hinton, Iowa State Association of Counties (ISAC), commented that ISAC will be looking closely at anything that is required beyond core service capacity. She expressed concern that data used for statewide average comparisons will be based on legal settlement and not valid moving forward. She also expressed concern that counties would be expected to be above average on each of the listed outcome items, rather than a more overall comparison.

Patrick Schmitz said he still has concerns that the services listed under Core Services and Required Functions Standards are not available in all counties of the state. Rick Shults clarified that the items listed under Part (b) of Core Services and Required Functions Standards are not shown as a list of services, but as practice standards that apply to existing core services and they are included in the legislation. Rick said, for example, integrated treatment for co-occurring substance abuse and mental health

disorders is not a “service,” it is a standard of practice to be applied to the delivery of services. *These are not specific services; they are standard of practice service models.*

Patrick Schmitz asked how that operationally defined; is it different from co-occurring or multi-occurring capable? Rick said it means that the services have fidelity to the evidence-based model. The challenge will be the ability of DHS to determine whether or not a threshold has been met and the same challenge will apply to the regions. When the regional rules are developed they will go through the Commission and Commission members will have the opportunity to ensure that they are fair and consistent with these rules.

Shelly Chandler, Iowa Association of Community Providers (IACP), submitted written comments prior to the meeting and expressed her concern that the section addressing compliance with the requirements of regions allows a penalty that includes the reduction of funding, which would potentially harm people being served, not the region itself. She said she would propose making at a reduction of 15% of administrative funding. Rick responded that he is not sure the legislation gives DHS the flexibility to do that, but the bill can be reviewed.

Karen Walters Crammond, Polk County Health Services, commented that she feels this is a double standard. She said the state as a whole is not in a position to provide all the core services or provide them in an evidence-based model and requiring counties who want to be exempt to meet the requirements right away is not reasonable. She said she would suggest backing off to a more general outline, having applicants describe what already exists and what EBPs are being used now.

Lynn Farrell, Polk County CPC, commented that he would suggest that the form for application for exemption be made available as soon as possible, along with the statewide statistics to help counties reach their decisions.

Motion - Gary Lippe made a motion to adopt and file emergency the administrative rules for establishing criteria for county exemption from joining into regions and for forming regions of less than three counties, pending approval by the Administrative Rules Review Committee. The motion was seconded by Richard Crouch. Voting to approve: Neil Broderick, Lynn Crannell, Richard Crouch, Richard Heitmann, Chris Hoffman, David Hudson, Gary Lippe, Zvia McCormick, Dale Todd, Jack Willey. Voting against: Patrick Schmitz, Susan Koch-Seehase, Suzanne Watson. The motion passed on a vote of 10 to 3. (Note: Deb Schildroth left the meeting prior to voting.)

Motion - Neil Broderick made a motion to adopt the administrative rules for establishing criteria for county exemption from joining into regions and for forming regions of less than three counties by filing the Notice of Intended Action, pending approval of the Administrative Rules Review Committee. The motion was seconded by Gary Lippe. Voting to approve: Neil Broderick, Lynn Crannell, Richard Crouch, Richard Heitmann, Chris Hoffman, David Hudson, Gary Lippe, Zvia McCormick, Dale Todd, Jack Willey.

Voting against: Patrick Schmitz, Susan Koch-Seehase, Suzanne Watson. The motion passed on a vote of 10 to 3.

## ADOPTION OF THE ADMINISTRATIVE RULES FOR TRANSITION FUNDING

These rules were discussed at length and approved for emergency and notice of intended action at the August 16, 2012 Commission meeting. Public comment has been received and they have gone through the full notice and approval process.

Motion - Gary Lippe made a motion to adopt the administrative rules for Transition Funding. Richard Crouch seconded the motion. The motion passed unanimously.

## REVIEW AND APPROVAL OF COMMISSION ANNUAL REPORT

Discussion of proposed changes/additions:

- Add a brief explanation of the Commission's analysis of the need for transitional funding since we did not concur with the DHS recommendation
- Option One helps 26 counties; Option 3 only helps 3
- There is money available to more than cover the amounts needed by counties that submitted applications
- Since there is no more Risk Pool, counties have no place else to go
- Communicate the importance of getting technical assistance to the counties to help with financial and other transition issues
- The legislative needs to act quickly after the session starts
- Clients in 39 counties have already begun to lose services

A motion was made by Lynn Crannell to include support for Option One for Transition Fund appropriations in the report. The motion was seconded by David Hudson. After a short discussion the motion was withdrawn.

Motion - Patrick Schmitz made a motion for the Commission to draft a letter to the Governor and the Interim Committee outlining the Commission's recommendation and rationale. Chris Hoffman seconded the motion. The motion passed unanimously.

Commission members expressed consensus that it is important to articulate the rationale behind their recommendation. Members are asked to email any thoughts on how to effectively articulate the group's viewpoint to Jack Willey or Connie Fanselow to assist in drafting the letter.

The meeting was adjourned at 4:50 p.m.

Minutes respectfully submitted by Connie B. Fanselow.